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Oleksandr DERIABKIN
Postgraduate Student of the Department of Constitutional and Administrative Law, Zaporizhia National University, 66, Zhukovsky Str., Zaporizhzhia, Ukraine, 69600
ORCID: 0009-0007-3873-9010
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PRINCIPLES OF ADMINISTRATIVE PROCEDURES AND PRINCIPLES OF ADMINISTRATIVE LAW: APPROACHES TO LEGAL INTERPRETATION

The purpose of the article is to establish the diversity of approaches to determining the relationship between the category "principles of administrative procedures" and "principles of administrative law". The approach to understanding principles as a basis, ideological postulates, the implementation of which can reflect the essence of a certain phenomenon, is universally recognized. It is emphasized that the principles should be considered as a vector for the development of a certain field of social legal relations. The principles reflect the content and essence of the field of law. It was determined that the principles of administrative and procedural law are a component of the system of principles of administrative law. A conclusion was made about the universality of the principles of administrative law, which means their ability to optimally ensure the implementation of public-management legal relations. It was determined that the principles of administrative law should be understood as a set of fundamental principles, ideas, provisions that should be the basis for the formation of public-administrative legal relations, which is a guarantee of observing human rights and freedoms. The author concluded that the principles of administrative procedures are a component of the system of principles of administrative law, while the effectiveness of their implementation depends on the results of law enforcement. It has been established that the principles of administrative procedures determine the basic principles and norms that determine the procedure for conducting administrative procedures, that is, the sequence and method of interaction between authorities and participants of the procedures. The sectoral principles of implementation of administrative procedures include: the principle of the rule of law; the principle of accessibility and comprehensibility; the principle of optimal resolution of the case; the principle of consistency and systematicity: Administrative procedures must be carried out in accordance with a clear order and system. This helps to avoid misunderstandings and ensures stability in the administrative process; the principle of justice and good faith.

Key words: *administrative law, administrative process, administrative procedure, law enforcement, legal regulation, principles, interpretation.*

Олександр ДЕРЯБКІН
аспірант кафедри адміністративного та конституційного права, Запорізький національний університет, вул. Жуковського, 66, м. Запоріжжя, Україна, 69600
ORCID: 0009-0007-3873-9010
DOI: 10.32782/LST/2023-4-7

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ПРИНЦИПИ АДМІНІСТРАТИВНИХ ПРОЦЕДУР ТА ПРИНЦИПИ АДМІНІСТРАТИВНОГО ПРАВА: ПІДХОДИ ДО ПРАВОВОГО ТЛУМАЧЕННЯ

Метою статті є встановлення різноманіття підходів до визначення співвідношення категорії «принципи адміністративних процедур» та «принципи адміністративного права». Загальновизнаним є підхід до розуміння принципів як базису, ідейних постулатів, реалізація яких здатно відобразити сутність певного явища. Підкреслено, що принципи мають розглядатися як вектор розвитку певної галузі суспільних правовідносин. Принципи відображають зміст та сутність галузі права. Визначено, що принципи адміністративно-процедурного права є складовою системи принципів адміністративного права. Зроблено висновок про універсальність принципів адміністративного права, що означає їх здатність

оптимально забезпечити реалізацію публічно-управлінських правовідносин. Визначено, що принципи адміністративного права мають розумітися сукупність основоположних засад, ідей, положень, що мають бути базисом для формування публічно-управлінських правовідносин, що є гарантією дотримання прав та свобод людини. Автором зроблено висновок, що принципи адміністративних процедур є складовою системи принципів адміністративного права, при цьому ефективність їх реалізації залежить від результатів правозастосування. Встановлено, що принципи адміністративних процедур визначають основні принципи та норми, які визначають порядок проведення адміністративних процедур, тобто послідовність та спосіб взаємодії між органами влади та учасниками процедур. До галузевих принципів здійснення адміністративних процедур віднесено: принцип верховенства права; принцип доступності та зрозумілості; принцип оптимального врегулювання справи; принцип послідовності та системності: Адміністративні процедури повинні проводитися відповідно до чіткого порядку та системи. Це сприяє уникненню непорозумінь та забезпечує стабільність в адміністративному процесі; принцип справедливості та добросовісності.

Ключові слова: *адміністративне право, адміністративний процес, адміністративна процедура, правозастосування, правове регулювання, принципи, тлумачення.*

Urgency of the problem. It is a well-known fact that in jurisprudence, as in any other science, the task of developing a definition of any concept is to “reveal the content of this concept, pointing out its nature and essential properties of the subject being studied, which distinguish it from among others” (Kuchinskaya, 2013: 35). The principles are the guiding, organizing and synchronizing factor of the entire mechanism for regulating legal, including administrative and procedural relations. Considering that the principles of the central category of administrative procedural law, it should be noted that they reflect its essence, purpose and content. This thesis is quite logically applicable in relation to the principles of administrative procedural law, which quite thoroughly characterize the content and characteristic purpose of this sub-branch of administrative law.

Analysis of recent research and publications. The issue of establishing the content of the essence of the principles of administrative procedures has not been comprehensively investigated, but at the same time it is necessary to highlight a number of publications by such scientists as D.S. Astakhov (Astakhov, 2011), D.A. Kozachuk (Kozachuk, 2010), I.V. Kryvoruchko (Kryvoruchko, 2018), A.A. Sharaya (Sharaya, 2019) and others, which should serve as a scientific and theoretical basis for this study.

Purpose and main objectives of the study. The purpose of the article is to establish the diversity of approaches to determining the relationship between the category "principles of administrative procedures" and "principles of administrative law".

Presentation of the main research material. Considering that administrative-procedural law is a structural part of administrative law (in particular, its sub-branch), it should be considered that "principles of administrative-procedural law" are part of a broader and complex concept – "principles of administrative law", based on the definition and basic doctrinal approaches to which it is worth stopping.

It can be confidently asserted that principles are a primary phenomenon, on the basis of which scientific research is already being formed and norm-making processes are unfolding. V.K. Kolpakov and O.V. Kuzmenko rightly claim that the principles of administrative law are "positive regularities known by science and practice, enshrined in legal norms, or a generalization of the rules in force in the state" (Kolpakov, Kuzmenko, 2003: 18).

According to V.B. Averyanov, the principles of administrative law are "fundamental ideas, provisions, requirements that characterize the content of administrative law, reflect the regularities of its development and determine the directions and mechanisms of administrative and legal regulation of social relations" (Averyanov, 2004: 80).

Therefore, in addition to the influence of the principles on the "inner side" of administrative law, namely, its system and content, they have a direct and important relationship with regard to its external form – they are the ideological basis for the creation of normative legal acts in general, and each norm in them in particular, and this is confirmed by the analysis of the administrative-procedural legislation that was developed and adopted in Ukraine in recent years, focused on the maximum implementation of administrative services as a type of administrative procedures, the prevalence of proactive administrative procedures in the relationship between public administration subjects and private individuals, etc.

R.S. Melnyk believes that the principles of administrative law can be defined as "the main ideas, provisions, requirements that characterize the content of administrative law, reflect the regularities of its development and determine

the directions and mechanisms of administrative-legal regulation of social relations" (Melnyk, 2012: 51). Such a scientific position actually includes three conditional elements of the influence of principles: 1) the content of administrative law, 2) patterns of its development, 3) directions and mechanisms of administrative-legal regulation of social relations.

The definition of the principles of administrative law in the monograph of the same name, edited by T.O., deserves attention. Kolomoets and P.O. Baranchyk as "imperative, unconditional, universal provisions enshrined in the norms of administrative law, which generally outline the rules of behavior of its subjects and to which administrative and legal norms must correspond" (Kolomoets, Baranchyk, 2012: 44). This definition is quite broad in content and includes a fairly wide range of characteristics of the principles of administrative law, which should also be paid attention to. So, in particular, the imperativeness of the specified provisions is that they require unconditional submission, response, execution, have a certain "mandatory orientation", i.e. if a separate provision is formulated as a principle, it should be based on the relevant scientific research and normative processes.

This is a completely characteristic feature of any foundation, and therefore for a component of administrative law, which is a sub-branch of administrative-procedural law, it is definitely an absolute characteristic feature. "Imperativeness", "immutability", "stability", "rigidity" is a sign of the principle that ensures the existence of the sub-industry.

The unconditionality of the principles of administrative law is that they should not be limited, are "complete" in their content, do not depend on any conditions. In general, any conditions of existence are not characteristic of the "foundation" of law, as they "dilute" its essence. If we are talking about the "rule of law", because under any conditions it is a "basic" component of the foundation of the sub-branch, the field of law as a whole. There cannot be certain situations in which this principle applies, the "foundation" is either present or absent. The universality of the principles of administrative law means that they have various purposes, can be "adapted" for different areas or system elements, and are comprehensive. The fact that the principles are enshrined in the norms of administrative law reflects the "close connection" of these interdependent elements, which is also manifested in the fact that the principles of administrative law determine the rules of behavior of its subjects.

Conclusions and prospects for further exploration of this issue. Thus, it can be concluded that administrative scientists, offering their own author's approaches to the definition of "principles of administrative law", while they mostly coincide in the statements that the principles of administrative law: 1) are the basic principles, ideas, provisions that are laid down in the basis of the industry; 2) this is the basis for the formation and functioning of the system and content of the industry; 3) this is the basis for administrative and legal norms; 4) it is the basis of activity of subjects of administrative law; 5) it is a guarantee of ensuring the rights and freedoms of a person and a citizen, the normal functioning of civil society and the state. It is hardly possible to argue with the correctness of these theses, therefore it should be noted that they reflect the actual content and meaning of the principles of administrative law, and therefore should become the "basis" for the formulation of a single, generally accepted doctrinal definition of the principles of administrative law, and in the future, the principles of administrative -procedural law as sub-branch principles, and its subsequent normative consolidation as a norm-definition. In general, it is still desirable to standardize the definition of "principles of administrative proceedings", "principles of administrative procedural law", "principles of administrative procedures", "principles of administrative services", etc., thanks to which unification of the regulation of relevant relations is achieved, law enforcement practice becomes established.

At the same time, the principles of administrative law and the principles of administrative procedure are not synonymous. The principles of administrative law, so to speak, cover all directions and areas of functioning of public administration. This thesis should be considered "basic" in the further analysis of the principles of administrative-procedural law and their definition. And this is fully justified in view of the relationship between administrative law and administrative-procedural law as a whole and a part, the field of law and the sub-field of law, and therefore the principles of the field of law and the principles of the sub-field of law.

Thus, considering the principles of administrative-procedural law as "derived" from the principles of administrative law (as one of the elements that "dominates" in a specifically defined sphere of relations – administrative-procedural), one should consider scientific approaches to their definition and characterization of content.

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